In the

Supreme Court of the United States

OCTOBER TERM, 1951

No. 236

DAVID R. BLAKE and BETTY H. BLAKE,
Petitioners,
vs.
WONDER PRODUCTS, INC.,
a Michigan corporation, and
EDGAR A. ISLER,
Respondents

BRIEF OF RESPONDENTS IN OPPOSITION TO ISSUANCE OF WRIT OF CERTIORARI

ARGUMENT

I.

THE PETITION FOR A WRIT OF CERTIORARI SHOULD BE DENIED FOR THE REASON THAT IT HAS NOT BEEN SHOWN THAT A SUBSTANTIAL FEDERAL QUESTION WAS RAISED, OR DRAWN IN QUESTION, AND PASSED UPON BY THE MICHIGAN SUPREME COURT

1. Without waiving, or dwelling upon, the insufficiencies of the application for certiorari, Respondents are constrained to call attention of the Court to the fact that the Petition does not conform to the rules of this Court; that a copy of the record was not served upon counsel for respondents; that the statement of facts in the application is not substantiated by appropriate reference to the printed record; and that the facts set forth are not accurate or supported by the record in many respects.

Supreme Court Rule #38, Secs. 2 and 3;
Supreme Court Rule #27, Sec. 2 (d).

2. Petitioners contend that they have been denied due process guaranteed under the Constitution of the United States. They claim that issues not passed upon or raised in the trial court were the basis for the decision of the Michigan Supreme Court. To this the Respondents say:

a. The claimed federal question is raised for the first time in the Petition for Certiorari filed in this Court.

b. The petition does not show that the claimed federal question was affirmatively asserted before, and passed upon by, the Michigan Supreme Court, in this cause.

c. No federal question was asserted in the Application for Rehearing in the Michigan Supreme Court; and no federal question could exist in this cause *before* reversal by the Michigan Supreme Court.

d. The Petitioners have not affirmatively shown that the lower court passed upon or considered the federal question and they have not filed a Certificate of the lower court showing that a federal question was raised in and decided by that court.

e. There has been no showing that a final judgment of the Michigan Supreme Court covers the claimed federal question in this cause.

f. The claimed federal question is frivolous, not clearly set forth, and not substantial in any event.

3. The basis for the determination by the Michigan Supreme Court has been present since the inception of this cause and the question of rescission and acceptance was asserted in the declaration filed by plaintiff.

See: Paragraphs (16) and (17) of the Declaration, (Record p. 5)
Exhibit 7, (Record p. 155)

For the foregoing reasons, clearly apparent, it is submitted that the Petitioners' application for Writ of Certiorari to this Honorable Court should be denied.

Respectfully submitted,

GEORGE E. BRAND and
ORRIN C. JONES,
Counsel for Respondents.

September 6, 1951.